

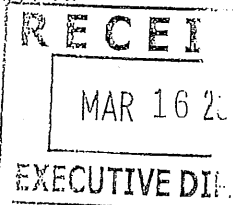
The State of Texas

RECEIVED BY U.S. House of Representatives

TRACKING # 15406

ASSIGNED TO: JFL

MAR 19 2007



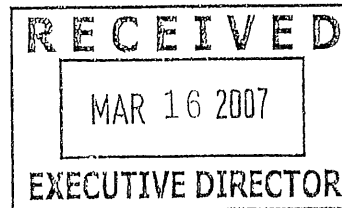
CAPITOL OFFICE:

P.O. Box 2910
Austin, Texas 78768-2910
E1.302
Tel: 512-463-0880
Fax: 512-463-2188

DISTRICT OFFICE:

P.O. Box 999
Canton, Texas 75103-0999
Tel: 903-567-0921
Fax: 903-567-0923

DUE DATE: 3-26-07 Dan Flynn
State Representative • District 2



March 12, 2007

Mr. Glenn Shankle
Executive Director (MC 109)
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F
Austin, Texas 78753

RE: O-Kee Dairy; Hamilton County, Texas;
Pending Permit Amendment - TPDES No. WQ0004108000;

Dear Mr. Shankle:

I am writing concerning the status of the above pending permit application for this family operated dairy operation located in Hamilton County near Hico, Texas. I am writing to seek your support for prompt issuance of the permit, which I understand is necessary for this dairy operation to upgrade its operations and lagoons to meet the latest environmental requirements and to achieve a modest increase in milk production.

The operation is an existing dairy which has about 690 head of milking cows and as part of renewal of the application is seeking to increase the head count of to a total of 999 animals. The dairy is currently being operated by Oene Keuning, a hard-working Dutch immigrant. In my discussions with the owner, Ms. Jewel Alt, I understand that she has spent considerable funds to hire one of the best agricultural engineers in the state to prepare the permit application. The application has been reviewed by your technical staff who have made a preliminary decision to grant the permit.

However, on the last day of the public comment period, a single letter submitting public comments and requesting a public meeting was filed with the TCEQ by an attorney working on behalf of the City of Waco. I must say that I find it somewhat amazing that none of the neighbors commented, yet a city, which is located more than 50 miles downstream, chose to file a lengthy letter regarding this application. Despite widespread notice of the application, the City's comment is the only comment or objection which was filed regarding the application. Based upon the City's comment, I understand that TCEQ will now hold a "public meeting" regarding the permit application.

Committees:
Vice-Chair, Financial Institutions
State Affairs
dan.flynn@house.state.tx.us

March 12, 2007

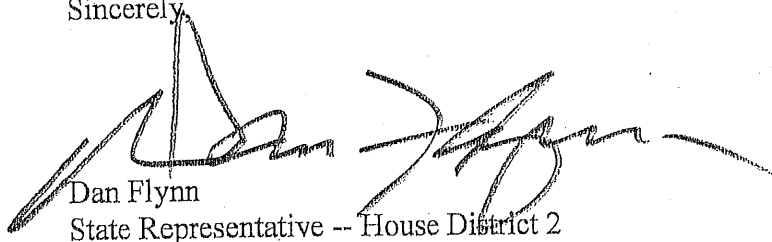
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I ask that you take whatever action is necessary to proceed to expeditiously process and issue the permit to this dairy. Only by issuance of the permit will the dairy be able to implement improvements to the operation which will be further protective of the environment, such as construction of additional lagoon storage capacity and new land application areas.

Finally, should the City or other opponents seek a contested case hearing on this permit application, I would urge that you give careful consideration to whether or not such opponents have "standing" to receive a hearing. I believe it would set a bad precedent, and throw the permit process into grid-lock, if the TCEQ began granting hearings to opponents which are located 50 miles or more from the applicant's property.

Thank you for prompt attention to this issue. Should you have any questions regarding this letter, please do not hesitate to contact me at my office address or at (512) 463-0880.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dan Flynn', is written over a horizontal line. The signature is fluid and cursive.

Dan Flynn
State Representative -- House District 2

c.c. The Honorable Dennis Bonnen

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 5, 2007

CHIEF CLERK'S OFFICE

2007 APR - 7 AM 11:01

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

The Honorable Dan Flynn
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768

RE: O-Kee Dairy Individual Permit Application

WQ000401000

Dear Representative Flynn:

I'm writing in response to your letter regarding the O-Kee Dairy pending concentrated animal feeding operation (CAFO) dairy permit application in the Bosque River watershed. In your letter, you request that the TCEQ act as expeditiously as possible to issue the permit.

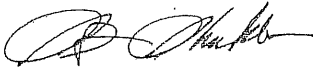
While I would like to move ahead as quickly as possible, the dairies in the Bosque River Watershed are required to obtain individual water quality permits. The permitting process includes a notice and opportunity for contested case hearing. Also, the O-Kee Dairy is located on an impaired water quality segment for which the agency has developed a Total Maximum Daily Load (TMDL) and Implementation Plan. The goal of these initiatives is to improve water quality in the area, and updated permits are an important part of these efforts. A number of dairy permits are moving through the permitting process under these new requirements. The O-Kee Dairy application is the first with a public meeting request to reach this latest stage of the permitting process following the approval of the TMDL and Implementation Plan. Therefore, it is important that the public and stakeholders understand the decision making process. We received a comment letter from the City of Waco requesting a public meeting in Waco and a comment letter from a concerned neighbor. The City's request is made on behalf of itself and its citizens. Given all of these factors, I have found that there is significant interest in the permit application, and the TCEQ is holding a public meeting in Hamilton County on April 16, 2007.

We are hopeful the applicant and TCEQ can use this meeting to respond to technical questions regarding the permit application in a manner that will reduce the likelihood of a request for a contested case hearing. The comment letter from Waco raises numerous questions regarding the tools and assumptions used by the applicant to develop the requirements of the application. A public meeting to explain those tools and strategies could be helpful to the process and build some acceptance for what the applicant proposes.

To date, the TCEQ has not received a request for a contested case hearing on the O-Kee Dairy permit application. If a hearing is requested, the agency's Commissioners will make the final decision on whether to grant the request. In order to grant the hearing request, the Commissioners must find that the requestor is an affected person. A person is an affected person if he has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. A justiciable interest is not an interest common to members of the general public. Unlike a public meeting, a person who requests a contested case hearing has to provide the Commission with the facts necessary to prove that the requestor is an affected person. If the requestor does provide sufficient facts to show that he is affected, the Commission is required to grant the contested case hearing request.

I hope this information addresses your concerns. Should you need any additional information or wish to discuss this matter further, please contact me at (512) 239-3900 or L'Oreal Stepney, Director of our Water Quality Division, at (512) 239-4554.

Sincerely,

A handwritten signature in dark ink, appearing to read "Glenn Shankle", written in a cursive style.

Glenn Shankle, Executive Director
Texas Commission on Environmental Quality

The Honorable Dan Flynn
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bcc: Dan Eden, Deputy Director, Office of Permitting, Remediation & Registration, MC 122
L'Oreal Stepney, Director, Water Quality Division, MC 145
Kerrie Qualtrough, Environmental Law Division, MC 173
Leonard Olson, Director, Intergovernmental Relations, MC 119
LaDonna Castañuela, CCO, MC 105
OPA facility file, MC 108